

EXHIBIT 1

INTRODUCTION

Respondent Diana R. Hall (“Hall”) was a successful candidate for Santa Barbara County Superior Court Judge in the March 5, 2002 primary election. Respondent Committee to Re-Elect Judge Diana R. Hall (“Committee”) was, at all relevant times, the controlled committee of Respondent Hall.

In this matter, Respondent Hall failed to report the true source of a \$20,000 contribution to her political campaign, and in doing so, Respondents committed several violations of the Political Reform Act (the “Act”).¹

For the purposes of this Stipulation, Respondents’ violations are stated as follows:

- COUNT 1: On or about February 7, 2002, Respondent Diana R. Hall received a \$20,000 political contribution and deposited it into her personal bank account, in violation of section 84307.
- COUNT 2: On or about February 7, 2002, Respondent Diana R. Hall received a \$20,000 political contribution and failed to deposit it directly into the bank account of her controlled committee, in violation of section 85201, subdivision (c).
- COUNT 3: Respondents Diana R. Hall and Committee to Re-Elect Judge Diana R. Hall received a contribution in excess of \$5,000 and failed to inform the contributor that the contributor may be required to file campaign reports, in violation of section 84105.
- COUNT 4: Respondents Diana R. Hall and Committee to Re-Elect Judge Diana R. Hall failed to disclose the true source of a \$20,000 contribution on a pre-election campaign statement for the reporting period January 20, 2002 through February 16, 2002, in violation of section 84211, subdivision (f).
- COUNT 5: Respondents Diana R. Hall and Committee to Re-Elect Judge Diana R. Hall failed to disclose the true source of a \$20,000 contribution on an amended pre-election campaign statement for the reporting period January 20, 2002 through February 16, 2002, in violation of section 84211, subdivision (f).

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

SUMMARY OF THE LAW

Duty to Segregate Campaign Funds and Deposit in Single Bank Account (Counts 1 & 2)

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure that requires that all financial information concerning the political activities of candidates and committees be maintained in detailed records and filed in public reports so that voters will know the source of a candidate's support and how the candidate spends money to get elected. For the purpose of accurate recordkeeping and reporting, and to prevent fraud and embezzlement, the assets of political entities must be segregated from nonpolitical, personal accounts and kept in a single bank account. To achieve this end, section 84307 specifically prohibits commingling of contributions with personal funds and section 85201, subdivision (c) requires candidates to establish a single campaign bank account into which all contributions and loans² made to a candidate must be deposited.

Donor Notification (Count 3)

A candidate or committee that receives contributions of \$5,000 or more from any person is required to inform the contributor in writing that he or she may be required to file campaign reports. (Section 84105.) The notification must occur within two weeks of the contribution. (*Ibid.*)

Campaign Reporting: Duty to Itemize Contributor Information (Counts 4 & 5)

On each campaign statement filed by a candidate or committee, section 84211, subdivision (f) requires the reporting of the following information about a contributor to the candidate or committee if the cumulative amount of contributions (or loans) received from the contributor is \$100 or more, and a contribution or loan has been received from that contributor during the reporting period covered by the campaign statement: (1) his or her full name; (2) his or her street address; (3) his or her occupation; (4) his or her employer, or if self-employed, the name of the business; (5) the date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and (6) the cumulative amount of contributions. Section 82018, subdivision (a) defines "cumulative amount" to include the amount of contributions received or expenditures made in the calendar year.

Section 82013, subdivision (a) defines a "committee" to include any person who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a "recipient committee." Under section 82016, a recipient committee controlled by a candidate is a "controlled committee."

² For the purposes of the Act, a loan is a contribution, and is therefore treated as a contribution, unless it is received from a commercial lending institution in the ordinary course of business, or it is clear from the surrounding circumstances that it is not made for political purposes. (Section 84216.)

SUMMARY OF THE FACTS

INTRODUCTION

Respondent Hall was a judge for the Santa Barbara County Municipal Court from December 21, 1990 to August 2, 1998, and for the Santa Barbara County Superior Court from August 3, 1998 to the present. Respondent Hall successfully ran for Santa Barbara County Superior Court in the March 5, 2002 primary election. Respondent Committee was, at all relevant times, the controlled committee of Respondent Hall. The investigation of this matter arose out of an audit of the Respondent Committee conducted by the Franchise Tax Board ("FTB") for the period January 1, 2001 through October 26, 2002. During the audit period, Respondent Committee reported receiving contributions totaling \$45,546 and making expenditures totaling \$40,654.

In this matter, Respondent Hall failed to report the true source of a \$20,000 contribution to her political campaign, and in doing so, Respondents committed several violations of the Act. Specifically, Respondent Hall received a \$20,000 contribution for her campaign from her non-registered domestic partner Deidra Dykeman and impermissibly deposited those funds into her personal account instead of the campaign bank account of Respondent Committee. Respondent Hall transferred the funds to her campaign committee by writing a check from her personal bank account to the Respondent Committee's campaign account for \$25,000; she reported the funds as a personal contribution. The \$20,000 was included as part of a \$25,000 contribution and the entire amount was reported on the Respondent Committee's campaign statements as a contribution from Respondent Hall. Because the true source of the funds was not disclosed by Respondent Hall, the required notice to Ms. Dykeman informing her that she may have political reporting duties was never sent by Respondent Committee. Also, Respondent Committee never reported that the funds were contributed by Ms. Dykeman. Later, Respondent Hall amended her campaign statement to show the money as a loan from herself.

COUNTS 1-2

Failure to Segregate Campaign Funds and Deposit in Campaign Bank Account

Respondent Hall impermissibly commingled a political contribution with personal funds and failed to deposit the political contribution into the Respondent Committee's campaign bank account. On or about February 7, 2002, Diedra Dykeman wrote a check from her personal bank account made payable to Respondent Hall in the amount of \$20,000 for Respondent Hall's re-election campaign. That day, Respondent Hall deposited the \$20,000 check from Ms. Dykeman into her personal account. By commingling the campaign contribution with her personal funds, Respondent Hall violated of section 84307. The \$20,000 check should have been deposited into the campaign bank account, and by depositing it into her personal account instead, Respondent Hall also violated section 85201, subdivision (c).

COUNT 3

Failure to Send Donor Notification

As discussed above, on February 7, 2002, Diedra Dykeman contributed \$20,000 to Respondent Hall for Respondent Hall's re-election campaign. As a candidate or committee who received a contribution of \$5,000 or more from any person, Respondents Hall and Committee had a duty to inform Ms. Dykeman, in writing, within two weeks of the receipt of the contribution that she may be required to file campaign reports. By failing to provide Ms. Dykeman with the required notification, Respondents Hall and Committee violated section 84105.

COUNTS 4 & 5

Failing to Disclose True Source of a Contribution on Campaign Statements

As a candidate and as a controlled committee, Respondents Hall and Committee had a duty to disclose required information regarding any contribution of \$100 or more received by Respondent Committee. On February 7, 2002, Respondents Hall and Committee received a \$20,000 contribution from Diedra Dykeman. As the contribution totaled \$100 or more, Respondents Hall and Committee were required to report that Ms. Dykeman was the source of the contribution on all campaign statements filed by Respondent Hall at issue in this matter. Instead, Respondent Hall reported herself as the source of the contribution. By failing to disclose that Ms. Dykeman was the true source of a contribution of \$100 or more on the Respondent Committee's pre-election campaign statement, as well as the amended pre-election statement, both for the reporting period January 20, 2002 through February 16, 2002, Respondents Hall and Committee committed two violations of section 84211, subdivision (f).

CONCLUSION

This matter consists of five (5) counts, which carry a maximum administrative penalty of \$5,000 per violation, for a total penalty of \$25,000.

The violations committed by Respondent Hall, a superior court judge, concealed the true source of her campaign financing from the public. In mitigation, it appears that Respondent Hall failed to report Diedra Dykeman as the source of the \$20,000 contribution to her campaign because, as non-registered domestic partners, Respondent Hall considered their financial resources to be shared. Thus, Respondent Hall did not believe that she violated any campaign law by not disclosing Ms. Dykeman as the source of the funds. Respondent Hall's actions were not an effort to gain an unfair political advantage over her opponent. Additionally, Respondent Hall's only opponent dropped out of the race in early March of 2002 for reasons unrelated to Respondent Hall's conduct. Thus, the violations committed by Respondent Hall were not a factor in her re-election.

For Count 1, there is no typical stipulated administrative penalty for commingling campaign funds with personal funds. However, in this matter, the commingling of the \$20,000 made the true source of the contribution difficult to trace. Because commingling obscures the

public's ability to learn the true source of a candidate's support, the harm is similar in kind to the public harm inherent in a violation of the one bank account rule. Thus, it is appropriate to assess a penalty on par with a violation of the one bank account rule. The typical administrative penalty imposed for a violation of the one bank account rule has been in the low-to-mid range of the applicable statutory penalty range, depending on the circumstances of the violation. In this matter, the dollar amount in question represented almost half of the total amount contributed in her campaign. Thus, an administrative penalty of \$2,000, toward the higher end of the typical range is appropriate.

For Count 2, as discussed above, the typical stipulated administrative penalty imposed for a violation of the one bank account rule has been in the low-to-mid range of the applicable statutory penalty range, depending on the circumstances of the violation. Again, the dollar amount in question represented almost half of the total amount contributed in Respondent Hall's campaign. In light of this factor, an administrative penalty toward the higher end of the typical range is appropriate, in the amount of \$2,000.

Regarding Count 3, the typical stipulated administrative penalty imposed for failing to send a major donor notification to a contributor or \$5,000 or more has been in the low-to-mid range of the applicable statutory penalty range, depending on the circumstances of the violation. Respondent Hall's failure to disclose the true source of the contribution, coupled with failing to send the major donor notification, resulted in no proper paper trail of the contribution. Thus, an administrative penalty toward the higher end of the typical range is appropriate, in the amount of \$2,000.

Counts 4 and 5, failure to disclose the true source of a contribution, are serious violations as they undermine one of the basic purposes of the Act. In this regard, the typical stipulated administrative penalty is typically toward the higher end of the applicable statutory penalty range. Additionally, as stated above, the dollar amount unreported represented almost half of the total amount contributed. In light of these factors, an administrative penalty for both counts in the amount of \$9,000 is appropriate.

Accordingly, the facts of this case justify imposition of a total administrative penalty of Fifteen Thousand Dollars (\$15,000).